

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

LUIS FERMIN HERRERA, SR.,  
Petitioner,  
v.

Case No. 2:20-cv-2322-KJD-DJA

**ORDER**

WARDEN T. JUSINO,  
Respondent.

In this case, on December 17, 2020, Luis Fermin Herrera, Sr., who is incarcerated at the Federal Correctional Institution, Victorville (FCI Victorville), submitted to this Court, for filing, a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (ECF No. 1-1). In his petition, Herrera claims that the Federal Bureau of Prisons has improperly calculated his sentence and his release date. He names as the respondent in his petition the warden of FCI Victorville (although he apparently misidentifies the warden as T. Jusino; this Court is informed that the warden of FCI Victorville is Francisco J. Quintana).

Herrera did not pay the filing fee for this action, and he did not file an application to proceed *in forma pauperis*.

Also, the Court notes that the pro se petition is on an improper form. The petition is on a form captioned for filing in the United States District Court for the Central District of California.

Moreover—and most importantly—as Herrera’s action is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, naming as the respondent the warden of the prison where he is incarcerated, venue is improper in this district court. A petition

1 under § 2241 must be filed in the federal district court with jurisdiction over the petitioner  
2 or his custodian. *Brown v. United States*, 610 F.2d 672, 677 (9th Cir. 1980).

3 For the foregoing reasons, the Court will dismiss this matter without prejudice.  
4 Herrera may attempt to file his petition in the jurisdiction of his confinement, which is the  
5 United States District Court for the Central District of California.

6 **IT IS THEREFORE ORDERED** that this action is dismissed without prejudice.

7 **IT IS FURTHER ORDERED** that the petitioner is denied a certificate of  
8 appealability, as jurists of reason would not find debatable the dismissal of this action.

9 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment  
10 accordingly.

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12 DATED THIS 28th day of December, 2020.

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15 KENT J. DAWSON,  
16 UNITED STATES DISTRICT JUDGE  
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